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S.F. may pay freed man \$4.5 million settlement

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San Francisco officials have tentatively agreed to pay \$4.5 million to a man who spent nearly 14 years in prison before a judge reversed his murder conviction, finding that city authorities had withheld evidence his attorneys said could have cleared him.

The payout to John "J.J." Tennison, 37, would be the largest settlement ever in San Francisco of a lawsuit related to police conduct, records show. It will go first to the Police Commission and then the Board of Supervisors for approval.

Tennison was freed in 2003 after a federal judge overturned his conviction for the August 1989 killing of 18-year-old Roderick "Cooley" Shannon. He had been serving a prison term of 25 years to life.

Another judge freed Tennison's co-defendant, Antoine Goff, who was serving 27 years to life. A Superior Court judge subsequently declared both men "factually innocent." They then sued in federal court, saying the city had violated their civil rights.

The city attorney's office reached a proposed settlement with Tennison last month, court documents show. Goff's suit is still pending and is scheduled to go to trial later this year.

Although the documents do not give the proposed sum in Tennison's settlement, sources familiar with the matter told The Chronicle that it was \$4.5 million. The sources spoke on condition of anonymity because the agreement has not been formally approved.

'He deserves it'

Elliot Peters, one of Tennison's attorneys, would not discuss the details of any agreement. But he said, "John is going to be compensated for his 14 years in custody - he deserves it."

The city attorney and the lawyer for the two retired police investigators who arrested Tennison when he was 17 have denied that the city or police did anything wrong. Matt Dorsey, spokesman for City Attorney Dennis Herrera, declined to comment on any settlement.

Attorneys for Tennison and Goff have long argued that prosecutors and the two police investigators - Earl Sanders, later the chief of police, and Napoleon Hendrix - kept possibly exculpatory evidence from the defense at the time of trial and afterward.



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Tennison's team said the evidence included a post-trial confession of another man and the earlier statement by a woman who indicated that the man may have been involved in Shannon's killing.

The courts found that other evidence the defense says San Francisco authorities never provided - including the existence of a \$2,500 reward fund in the case - could have helped Tennison's attorneys challenge the credibility of the only eyewitnesses to the shooting, two girls ages 11 and 14.

Jim Quadra, a private attorney retained by the city to represent Hendrix and Sanders, declined to discuss the settlement but stressed that his clients had acted properly.

"They deny vehemently that they did anything wrong," Quadra said.

Judge found case weak

In freeing Tennison, U.S. District Judge Claudia Wilken concluded not only that authorities had withheld key evidence from the defense, but also that the prosecution's case was weak to begin with.

"No physical evidence was presented at trial tying Tennison to Shannon's shooting," she said. "The prosecution's entire case was dependent upon the testimony of ... two young girls whose eyewitness identifications of Tennison were questionable."

Wilken has served as the judge in Tennison's and Goff's lawsuits as well. In the civil case, she rejected some of the same claims that she had cited in releasing Tennison and left only three issues in dispute.

One was the issue of the existence of the "secret" \$2,500 reward fund. Defense attorneys said they could have used its existence to challenge witnesses' credibility.

Quadra said police had given a memo mentioning the reward fund to prosecutor George Butterworth, an assertion disputed by Tennison's attorney. "Butterworth did not know about the secret memo," Peters said.

In any event, Quadra said, no money was paid out.

Late confession

The second issue involved the circumstances surrounding the post-trial, taped confession of Lovinsky Ricard. Butterworth admitted the existence of the tape during a hearing on the motion by Tennison's defense for a new trial in May 1991. He said he had just gotten the tape the day before.

Quadra said former inspectors Sanders and Hendrix had never known about the confession, which Ricard made to another investigator, or about the tape's existence. Tennison's attorneys argued that Sanders and Hendrix had known about the tape for seven months but withheld it from prosecutors.

Ricard ultimately asserted his Fifth Amendment right against self-incrimination and refused to answer questions in the civil case.

The third issue concerned the account provided by the woman who had earlier told Sanders and Hendrix

that Ricard might have been involved.

Tennison's attorneys said they had not known about the statement by Chante Smith until years after the trial. Butterworth suggested he had not fully understood the account of the interview he got from police, but that he had still given it to the defense.

Wilken ruled that a jury should sort out the dispute.

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